

Amended MDR Tracking Number: M5-05-1135-01 (**Previously M5-04-1563-01**)

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on **9/5/03**.

The Medical Review Division's (MDR) Decision of 11/9/04 was appealed by the respondent on 11/19/04 for an Administrative Hearing before the State Office of Administrative Hearings. Subsequently, the MDR Decision of 11/9/04 was withdrawn by the Medical Dispute Division applicable to a Notice of Withdrawal dated 12/6/04. An Order was rendered in favor of the requestor. The original Findings and Decision was withdrawn because of the following reasons: a) Refund of \$650.00 is due the requestor, b) The HCFA's show the HCP to have exceeded the MFG, MGR (I)(A)(10)(a) performing more than 4 modalities/procedures /activities than allowed per session and, c) Correction of typo's.

This AMENDED FINDINGS AND DECISION supersedes the previous M5-04-1563-01 decision rendered in this medical dispute involving the above requestor and respondent.

The requestor submitted the original dispute with dates of service (DOS) 9/5/01 and 10/17/01 which are outside the one (1) year timely filing rule 133.307 (d)(1), therefore these DOS will not be mentioned further in this Amended Findings and Decision.

The requestor faxed a request on 5/3/05 to withdraw all DOS from 9/11/02 through 10/25/02 from the dispute. The remaining DOS in dispute, 2/5/03 through 2/28/03, were medical necessity issues and were reviewed by an IRO.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity issue are the only issues** to be resolved. The disputed treatments /services reviewed by the IRO found to be medically necessary are as follows: hot/cold pack therapy, electrical stimulation therapy, therapeutic activities, physical therapy exercises, joint mobilization, ultrasound, myofascial release, physical therapy procedure and neuromuscular re-education from DOS 2/5/03 through 2/28/03. On DOS 2/10/03, only four (4) modalities of the five (5) rendered, shall be reimbursed according to MFG/MGR (I)(A)(10)(a). The respondent raised no

other reasons for denying reimbursement for the mentioned treatments/services reviewed by the IRO.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 2/5/03 through 2/28/03 in this dispute.

This Order is hereby issued this 4th day of May 2005.

Carol R. Lawrence
Medical Dispute Resolution Officer
Medical Review Division

CRL/crl

Enclosure: IRO decision

November 7, 2003

Amended Decision
Adding Dates of Service to Disputed Services

Re: Medical Dispute Resolution
MDR #: M5-04-0092-01
New MDR #: M5-05-1135-01
TWCC#:
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Orthopedic Surgery.

Clinical History:

On ___ this 47-year-old lady injured her shoulder while working. She had a diagnosis of adhesive capsulitis of the shoulder. The record indicates that she finally underwent surgical arthroscopy of the shoulder on 01/14/03. This usually involves removing adhesions and freeing adhesions arthroscopically, along with some attempts to do a gentle manipulation under anesthesia. At any rate, she had this procedure done, and after the surgery was done, physical therapy was ordered to attempt to regain motion in the shoulder. She was allowed to have three weeks of healing before the

physical therapy began, and it was to begin on 02/05/03. She received passive modalities initially, and these were followed by an active exercise program for which she received instructions, and received physical therapy through 02/28/03.

Disputed Services:

Therapeutic activities, PT exercise Ultrasound, electric stimulation, hot or cold packs therapy, joint mobilization, office outpatient, physical therapy, physical medicine procedure, myofascial release, neuromuscular re-education. Dates of Service in dispute – 02/05/03 through 02/28/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier. The services in question were medically necessary in this case.

Rationale:

When a patient has adhesive capsulitis of the shoulder and has gone through longstanding conservative treatment with continued limitation of motion that eventually requires a surgical arthroscopy, it is usual that physical therapy should be started fairly soon after the procedure. If it is not started fairly soon after the procedure, the patient does not gain any grounds from the lysis of adhesions or the manipulation of the shoulder under anesthesia. Therefore, the treatment in question was medically necessary.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,